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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,299	01/07/2004	Kenny D. Breeding	04-01-07PA	7570
39172	7590	03/03/2006	EXAMINER	
CROSSLEY PATENT LAW 400 SOUTH THIRD STREET MONTROSE, CO 81401			PECHHOLD, ALEXANDRA K	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/753,299	Applicant(s) BREEDING, KENNY D.	
	Examiner Alexandra K. Pechhold	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6 is/are rejected.
- 7) ☒ Claim(s) 7-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: in the Abstract, the language "disclosed" in line 1 should be removed, and "bade" in line 1 is misspelled. Appropriate corrections are required.

Claim Objections

2. Claim 10 is objected to because of the following informalities: the claims are improperly numbered since there are two claims labeled claim 10. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 2-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Rouillard (US 6,296,467).**

Regarding claim 2, Rouillard discloses a portable vibratory screed comprising:

- a) a screed blade (seen as blade 10),
- b) a blade adapter assembly (seen as housing weight 26) attached to the blade,

c) a power platform assembly (seen as plate 16, shaft housing 22, and motor 14) attached to the blade adapter assembly,

d) a handle bar assembly (seen as handle assemblies 12a, 12b) attached to the power platform assembly,

e) a vibrator cartridge assembly (seen as drive axle 50, shaft assembly 74, and counter weight 78) attached to the blade adapter assembly the vibrator cartridge assembly also being attached to the power platform assembly,

f) wherein the power platform assembly operates the blade and imparts vibration on the blade (as disclosed in column 4, lines 3-12 since motor 14 imparts vibration on the blade through the mechanisms described).

Regarding claim 3, the handle bar assembly is adjustable (see column 4, lines 42 reciting an adjustable handle 92).

Regarding claim 4, the screed further comprises a plurality of vibration isolators (seen as "vibro mounts" or cushions 30 extending between the plate 16 and housing 26, see column 3, lines 7-14 and Fig. 3), the isolators separating the blade adapter assembly from the power platform assembly.

Regarding claim 5, the power platform assembly further comprises:

a) a motor (seen as motor 14),

b) a motor mount body having two ends comprising an upper end (seen as the structure of the motor 14 in Fig. 1) and a lower end (seen as shaft housing 22 supporting the motor 14 in Fig. 1), the lower end of the motor mount body being attached to the motor (see Fig. 1),

- c) a drive shaft (seen as drive shaft 24) located within the motor mount body (see Fig. 3),
- d) a drive connector connected (seen as flexible joint, coupling or drive axle 50 in Fig. 3 and column 3, line 33) to the drive shaft,
- e) a drive joint (seen as shaft assembly 74 in Fig. 3) connected to the drive connector, and
- f) means for attaching the power platform assembly to the vibrator cartridge assembly (seen in Fig. 3 as the bolts 36 and joint 50 fastened with bolt 62 and pin 64).

Regarding claim 6, the means for attaching further comprises a flex joint (seen as body 62 of flexible joint 50), which is connected to the drive joint and connected to the vibrator cartridge assembly (see Fig. 3).

Allowable Subject Matter

5. Claims 7-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Note that the Examiner is indicating that both "claim 10s" would be allowable.

Response to Arguments

6. Applicant's Amendment filed 1/11/06 cancelled independent claim 1 and added new claims 2-14. Accordingly, the Examiner is setting forth a new grounds of rejection with regards to these new claims.

Conclusion

7. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3671

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (571) 272-6994. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (571) 272-6998. The fax phone number for this Group is (571) 273-8300.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

AKP
2/28/06